

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FUNKE *et al.*

Appl. No.: 10/581,447

§ 371 Date: April 12, 2007

For: **Active Compound Combinations  
Having Insecticidal and Acaricidal  
Properties**

Confirmation No.: 2172

Art Unit: 4131

Examiner: Kasturi, Sriram

Atty. Docket: 2400.0450000/VLC/BAH

**Reply to Restriction Requirement**

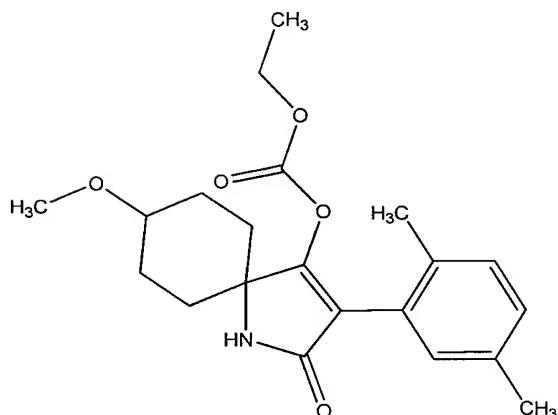
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

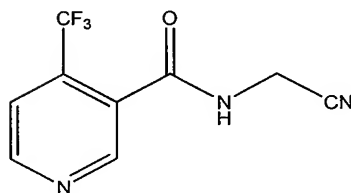
In reply to the Office Action dated June 16, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-5 and 7-9. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The Office has also required Applicants to elect a single species from each of formula I, group 2, and formula II for search purposes. Applicants provisionally elect the following single species: I-a-4 (a specific compound from formula I), flonicamid (2-6) (a specific insecticide from group 2), and II-1-4 (an anthranilamide of formula II). The structures of these components are:

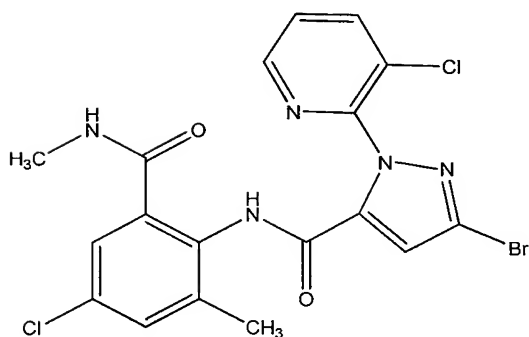
I-a-4



(2-6) flonicamid



II-1-4



This election is made with traverse. The Examiner has failed to place claim 10 into either Group I or Group 2. The claims of Group I are directed to compositions comprising compounds of formula I or group II, and compounds of formula II; claim 10 is directed to the preparation of compositions comprising these compounds; and the

claim of Group II is directed to a method of using these compositions as pesticides. Group I, claim 10, and Group II therefore are related as products, process adapted for the manufacture of such products, and a process of use of such products, respectively. Section 1.475 (b)(3) of Title 37 of the Code of Federal Regulations states that a national stage application containing claims to a product, a process specially adapted for the manufacture of said product, and a use of said product will be considered to have unity of invention. Examining these three groups together would therefore not place an undue burden on the Examiner.

Additionally, the Examiner has indicated that this Office Action is responsive to a communication filed April 12, 2007. However, the Examiner should have indicated that this Office Action is responsive to the submission of Applicants' Preliminary Amendment filed on May 15, 2007.